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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/586,006

12/11/2006

Heiner Sann

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Ballard Spahr LLP

SUITE 1000

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ATLANTA, GA 30309-3915

EXAMINER

FAYYAZ, NASHMIYA SAQIB

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/586,006	Applicant(s) SANN ET AL.	
	Examiner Nashmiya S. Fayyaz	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-5, 7-13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson-US Pub # 2002/0172600. As to claims 1 and 18, Anderson discloses a bladder pump and method for taking liquid samples from a container (well 2) which are filled with a medium (groundwater 6) and includes a non-return valve element (check valve member 98) arranged within sample probe (sample pump 10) as an inlet via inlet chamber 48 and inlet check valve 90 which is opened by means of a alternating negative pressure on bladder 80, a supply line to convey gas (gas conduit 18) and a required single discharge line

(passage 70 along with conduit 16) which are arranged on the side of the element remote from the medium, see figs. 1-5 and par[0011] et seq. Further, it is noted that Anderson does not indicate generating a negative pressure in the passage 70 per se. However, given that there is alternating negative pressure applied to liquid chamber 84 which is connected to passage 70 via openings 71, it would have been obvious to one of ordinary skill in the art at the time of the invention to have indicate that the discharge line (passage 70) generates the negative pressure for opening the valve 90 and drawing the liquid by suction, note also par [0044]. As to claim 2, note second container (inlet chamber 48). As to claim 3, note valve 98 appears to be within the passage 70 leading to conduits 16 and 18. As to claim 4, note that the pressures alternate between positive and negative, note par[44]. As to claim 5, since the check valve is opened by negative pressure, inherently, it would closed by positive pressure. As to claim 7, the conduits 16 and 18 have an outlet fitting which appear to have sheathing which would obviously have temperature control as well as the conduits themselves have some sort of exterior shell which could be considered sheathing. As to claim 8, the air being supplied for pressurizing can be considered a heating or cooling device as it causes some degree of heating/cooling. As to claim 9, note fluid fitting 120 for connection to an external gas conduit. As to claim 10, it is noted that there are not first and second valves depicted. However, it is noted that it is recited that timers control the flow of air,

see par [0026]. Also, official notice is taken that valves are old and well-known to control the flow of air. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included valves along with the timers to control the flow of air as is recited in par[0026] since valves are old and well-known to control the flow of air. As to claim 11, note pressure gauges 118, 120 and 122. As to claim 12, usage of a filter in the gas conveying line is considered to have been a matter of obvious design choice in order to protect the gas pump from damage due to debris. As to claim 13, it would appear that the conduits are “suitable for” supplying and discharging rinsing fluids.

4. Claims 14-17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Shook-US Patent # 2,434,723. As to claims 14-17, 19 and 20, Anderson lacks a specific teaching for provision of rinsing or washing of the sampling pump's conduits. In a related prior art device, Shook also teaches sample collection instrument 2 in which it is indicated that the instrument is flushed or washed with a wash fluid through branch 35, see col. 2, lines 50 et seq. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included a rinse fluid line/container etc. in the device of Anderson in order to wash out contaminants and excess materials found in the sample lines as taught by Shook in order to maintain the integrity of the sample.

Response to Arguments

5. Applicant's arguments with respect to claims 1-5 and 7-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additional prior art to Murray et al also includes a liquid sampler with a non-return valve 22.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nashmiya S. Fayyaz whose telephone number is 571-272-2192. The examiner can normally be reached on Tuesdays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. S. F./
Examiner, Art Unit 2856
/Hezron Williams/
Supervisory Patent Examiner, Art Unit 2856